

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SECOND DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 10331 of 2004

Between:

1. K.Subba Rao, S/o Satyanarayanarao,
Grampanchayat Venuturumilli Village, Gudlavalleru Mandal, Krishna
District.
2. Sri Badiga Nancharaiah, S/o Venkataramaiah,
Venuturumilli Village, Gudlavalleru Mandal, Krishna District.

..... PETITIONERS

AND

1. The District Collector, Krishna, Machilipatnam.
2. The Superintending Engineer (Irrigation), Near PWD Grounds, Vijayawada,
Krishna District.
3. The Executive Engineer (Irrigation), Krishna Eastern Division, Near PWD
Grounds, Vijayawada, Krishna District.
- 4 The Dy.Executive Engineer (Irrigation), Kowtaram, Gudlavalleru Mandal,
Krishna District.**RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue Writ or direction preferably writ of Mandamus declaring the action of the respondents in sanctioning the Drop (Shutter) at 3/7/545 (Dokuparri Village) instead of at 4/7/200 as per our representations is illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents not to proceed with the construction of Shutter on Konkepudi Channel at Dokuparri of Gudlavalleru Mandal

of Krishna District and conduct enquiry and construct the same at 4/7/200 by considering the petitioners representations dated 11-06-2004 and 19-06-2004

Counsel for the Petitioners: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondents: GP for Irrigation and Command Area Development.

The Court made the following:

ORDER:

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Heard both sides and at their request the writ petition itself is taken up for disposal.

The petitioners, who are the residents of Venuturumilli Village, Gudlavalleru Mandal, Krishna District, filed this writ petition, *inter alia*, seeking a writ of Mandamus declaring the action of the respondents in sanctioning the Drop (Shutter) at 3/7/545 (Dokuparri Village) instead of at 4/7/200 as per their representation, as illegal and arbitrary.

The case of the petitioners is that having regard to the exigency of the situation, they filed representations dated 11-06-2004 and 19-06-2004 seeking to provide a drop at 4/7/200, instead the respondents-Authority sanctioned the drop at 3/7/545, which is detrimental to the interests of the petitioners' and the said action is without any basis. Hence, the writ petition.

In the counter-affidavit filed by the respondents herein, it is contended that the petitioners have requested the respondents for construction of drop at mileage 4/7/200 while construction of drop at 3/7/545 was in progress and that the necessity of construction of drop at mileage 4/7/200 will have to be examined with reference to technical feasibility and also keeping in view the availability of funds. It is further contended that the petitioners have no right to seek for stoppage of re-construction of drop at mileage 3/7/545 because it is for the authorities to balance the various requirements of different sections of the Society. Therefore, the challenge made by the petitioners against

the existing drop is wholly unsustainable.

Considering the submissions made by both the learned Counsel and upon perusal of the material available on record, it is seen that the petitioners' complaint is against the sanction of drop at mileage 3/7/545, which is sought to be denied by the respondents herein stating that the same is an old and existing drop.

In the aforementioned circumstances, I do not find any ground to go into the aspect as to whether there is any such new drop sanctioned. However, taking into consideration the statement made by the respondents in the counter-affidavit that the request for drop at Mileage 4/7/200 will have to be examined carefully with reference to technical feasibility and also keeping in view the availability of funds, it would suffice in the interests of justice to dispose of the writ petition with a direction to the respondents to give a fresh consideration to the request of the petitioners and take appropriate decision, in accordance with law.

With the above direction, the writ petition is disposed of. No order as to costs.

(B.PRAKASH RAO, J)

Date: 02-08-2004

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SECTION OFFICER

To

1. The District Collector, Krishna, Machilipatnam.
2. The Superintending Engineer (Irrigation), Near PWD Grounds, Vijayawada, Krishna District.
3. The Executive Engineer (Irrigation), Krishna Eastern Division, Near PWD

Grounds, Vijayawada, Krishna District.

4 The Dy.Executive Engineer (Irrigation), Kowtaram, Gudlavalleru Mandal, Krishna District.

5. Two CCs to the Government Pleader for Irrigation and Command Area Development, High Court of A.P., Hyderabad(O.U.T.)

6. Two CD copies.